

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

RED BARN MOTORS, INC., PLATINUM  
MOTORS, INC., and MATTINGLY AUTO  
SALES, INC., individually and on behalf of  
other members of the general public similarly  
situated,

Plaintiffs,

v.

COX AUTOMOTIVE, INC., NEXTGEAR  
CAPITAL, INC. F/K/A DEALER SERVICES  
CORPORATION, successor by merger with  
Manheim Automotive Financial Services, Inc.,  
and JOHN WICK,

Defendants.

Case No. 1:14-cv-01589-TWP-DKL

**APPENDIX TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT  
AND BRIEF IN SUPPORT**

EXHIBIT	DESCRIPTION
1	NextGear's Response to Interrogatory 13 (Excerpt)
2	Red Barn Motors, Inc.'s Responses to Interrogatories 6 and 12 (Excerpt)
3	Mattingly Auto Sales, Inc.'s Responses to Interrogatories 9-12 (Excerpt)
4	Platinum Motors, Inc.'s Responses to Interrogatories 9-12 (Excerpt)
5	Notices of 30(b)(6) Deposition to Red Barn Motors, Inc., Mattingly Auto Sales, Inc., and Platinum Motors, Inc.
6	Deposition Excerpts from Rule 30(b)(6) Deposition of Red Barn Motors, Inc. (Devon London)
7	Deposition Excerpts from Rule 30(b)(6) Deposition of Red Barn Motors, Inc. (Donald Richardson)

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
8	Deposition Excerpts from Rule 30(b)(6) Deposition of Mattingly Auto Sales, Inc. (Barry W. Mattingly)
9	Deposition Excerpts from Rule 30(b)(6) Deposition of Platinum Motors, Inc. (Nicol Zenia Perry)
10	Deposition Excerpts from Deposition of Adam Galema
11	Deposition Excerpts from Deposition of Lourdes Givens
12	Deposition Excerpts from Deposition of Stuart LaBauve
13	Declaration of Adam Galema, dated October 31, 2016
13-A	Sample NextGear Demand Promissory Note and Loan and Security Agreement
13-B	Red Barn Motors, Inc. Transaction Report
13-C	March 27, 2013 Email from Samantha Snyder
13-D	Mattingly Auto Sales, Inc. Transaction Report
13-E	November 16, 2012 Email from Ute Brandt
13-F	Platinum Motors, Inc. DSC Demand Promissory Note and Security Agreement
13-G	Platinum Motors, Inc. Transaction Report
13-H	Complaint, <i>Dealer Services Corp. v. Platinum Motors, Inc.</i>
13-I	Certified Judgment, <i>NextGear Capital, Inc. v. Platinum Motors, Inc.</i>
13-J	Platinum Motors, Inc. Document Production
14	Declaration of Adam Galema, dated April 26, 2017
15	Declaration of Mike McKinney, dated April 25, 2017
16	Declaration of Jeff Modjeski, dated April 24, 2017
17	Declaration of Brandon Walton, dated April 24, 2017
18	Declaration of Chuck Werner, dated April 25, 2017
19	Declaration of John Wick, dated April 25, 2017

EXHIBIT	DESCRIPTION
20	Expert Report of Jay Cunningham (Excerpts)
21	Red Barn Motors, Inc. DSC Demand Promissory Note and Security Agreement (Red Barn Dep. Ex. 5)
22	Amended Bankruptcy Petition, <i>In re Red Barn Motors, Inc.</i> (Red Barn Dep. Ex. 16)
23	Red Barn Motors, Inc. Insider Transactions, Exhibit N to Amended Bankruptcy Petition, <i>In re Red Barn Motors, Inc.</i> (Red Barn Dep. Ex. 21)
24	Mattingly Auto Sales, Inc. 2006 DSC Demand Promissory Note and Security Agreement (Mattingly Dep. Ex. 5)
25	Mattingly Auto Sales, Inc. 2009 DSC Demand Promissory Note and Security Agreement (Mattingly Dep. Ex. 8)
26	Certified Judgment, <i>NextGear Capital, Inc. v. Mattingly Auto Sales, Inc.</i> (Mattingly Dep. Ex. 15)
27	Platinum Motors, Inc. DSC Demand Promissory Note and Security Agreement (Platinum Dep. Ex. 3)
28	VA State Corporation Commission Business Entity Details (Platinum Dep. Ex. 2)

This 26th day of April, 2017.

s/ Tracey K. Ledbetter

David J. Jurkiewicz (18018-53)

Paul D. Vink (23785-32)

BOSE McKINNEY & EVANS LLP

111 Monument Circle, Suite 2700

Indianapolis, IN 46204

(317) 684-5000

(317) 684-5173 fax

[djurkiewicz@boselaw.com](mailto:djurkiewicz@boselaw.com)

[pvink@boselaw.com](mailto:pvink@boselaw.com)

Jason S. McCarter (*pro hac vice*)

Tracey K. Ledbetter (*pro hac vice*)

EVERSHEDS SUTHERLAND (US) LLP

999 Peachtree Street, NE, Suite 2300

Atlanta, GA 30309-3996

(404) 853-8000

(404) 853-8806 fax

[jasonmccarter@eversheds-sutherland.com](mailto:jasonmccarter@eversheds-sutherland.com)

[traceyledbetter@eversheds-sutherland.com](mailto:traceyledbetter@eversheds-sutherland.com)

*Attorneys for Defendants Cox Automotive, Inc.,  
NextGear Capital, Inc. f/k/a Dealer Services  
Corporation, and John Wick*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served upon the following counsel of record via the Court's electronic service notification system, this 26th day of April, 2017:

Ryan D. Adams  
James M. Garner  
Matthew M. Coman  
Jacob A. Airey  
SHER GARNER CAHILL RICHTER  
KLEIN & HILBERT, L.L.C.  
[radams@shergarner.com](mailto:radams@shergarner.com)  
[jgarner@shergarner.com](mailto:jgarner@shergarner.com)  
[mcoman@shergarner.com](mailto:mcoman@shergarner.com)  
[jairey@shergarner.com](mailto:jairey@shergarner.com)

Catherine E. Lasky  
Kerry A. Murphy  
LASKY MURPHY LLC  
[klasky@laskymurphy.com](mailto:klasky@laskymurphy.com)  
[kmurphy@laskymurphy.com](mailto:kmurphy@laskymurphy.com)

Cassie E. Felder  
LUGENBUHL, WHEATON, PECK,  
RANKIN & HUBBARD  
[cfelder@lawla.com](mailto:cfelder@lawla.com)

Gladstone N. Jones, III  
Lynn E. Swanson  
JONES, SWANSON, HUDDALL &  
GARRISON, LLC  
[gjones@jonesswanson.com](mailto:gjones@jonesswanson.com)  
[lswanson@jonesswanson.com](mailto:lswanson@jonesswanson.com)

Kathleen A. DeLaney  
DELANEY & DELANEY LLC  
[Kathleen@delaneylaw.net](mailto:Kathleen@delaneylaw.net)

Lisa Brener  
BRENER LAW FIRM, LLC  
[lbrener@brenerlawfirm.com](mailto:lbrener@brenerlawfirm.com)

s/ Tracey K. Ledbetter  
Tracey K. Ledbetter